

RUMSON PLANNING BOARD

MAY 13, 2013

MINUTES

Chairman Lospinuso called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The requirements of the Open Public Meetings Act were stated as met. The roll was called, with the following members present: Lospinuso, Casazza, Ekdahl, Rubin, Seaman, Shanley, Clark, Koenig, Hewitt, White, Williams. Also present: Michael Steib (Board Attorney), Fred Andre (Zoning Officer), Dave Marks, (T&M Assoc.), State Shorthand Services.

Approval of Minutes

Mr. Casazza moved to approve the minutes from the April meeting, and Mr. Koenig seconded.

Roll Call Vote: Ayes – Lospinuso, Rubin, Ekdahl, Casazza, Seaman, Shanley, Clark, Koenig

Nays – None

Abstain – Williams, Hewitt

Motion carried.

Raymond Guzman, 12 Narumsunk St.

Mr. Steib presented the resolution of approval for a minor subdivision application. Motion was made and seconded to adopt the resolution. It was noted that as per a condition of this approval, a grading plan has been submitted for review, and this has been approved. Mr. Shanley moved to adopt the resolution, and Mrs. Seaman seconded.

Roll Call Vote: Ayes (Eligible) – Lospinuso, Rubin, Ekdahl, Clark, Shanley, Koenig, Casazza, Seaman

Nays – None

Motion carried.

John & Lori Quigley, 133 Avenue of Two Rivers

Mr. Steib reported that the following exhibits have been received for this application to appeal the decision of the Tree Conservation Officer in the denial of a tree removal permit:

- A-1 Application dated 3/7/17
- A-2 Narrative statement
- A-3 Consulting report
- A-4 Tree removal plan and photos of property.

A series of letters from nearby property owners was also received, and if these neighbors are present, they may offer their testimony.

Mr. & Mrs. Quigley were sworn in at this time. Mr. John Quigley explained that they are attempting to clear their property to use it for their family. They have put together a plan they feel is reasonable and maintains a large number of trees, but will still give them the opportunity to grow grass and give them a yard. They are keeping as many trees as possible, and will have a landscape plan.

Mrs. Quigley stated they have many deer come through their property, and they think their plan would make for a safer place for their children and pets. They currently have one family member with Lyme disease. They also have a problem with people coming on to a portion of the property and leaving litter, etc. They would like to clear out some trees, plant sod, install sprinklers, and make it look nice. They have owned the property since 2001.

They had an earlier plan that was denied by the borough. They were told that they proposed to remove too many trees at that time. The plan they are presenting tonight is more detailed than their prior plan, but presents the same concept as that plan.

Councilman Rubin noted there was a new tree ordinance adopted by Borough Council in December, 2012.

Michael Lamana, Ecological Consultant and Certified Tree Expert and Forrester, was sworn in and the Board accepted his qualifications. He stated he was asked by the Quigley's to provide a report on their property. The figures before the board is the survey work that has been seen by the Board, superimposed with his new information, showing the location of the trees in the rear portion of the property. The Quigley's are not proposing to clear the property, but take out groups of trees in the rear yard and leave groups of trees in the rear yard. He estimates that they have approximately 149 trees on the entire parcel and 72 trees in the back yard area. This area in the rear has a tennis court, which they propose to remove.

They propose to remove 31 trees in the rear area. Some of these are hazardous and defective, in his opinion. Another set of trees to be removed are not hazardous, but are an invasive species, in his opinion. He would not expect any change to drainage patterns after the tree removal.

Mrs. Quigley said they have a plan, which shows what they propose to plant after the trees are removed. This was marked A-4 (replanting plan).

Frederick Haddad, 135 Avenue of Two Rivers, was sworn in to make a statement. He is the neighbor directly to the south of this property. He noted their good relationship with the applicants, but he is troubled with the amount of trees to be removed. He reported on water issues in the area, saying that his basement now floods. He fears that if they take down healthy trees, they run the risk of being overwhelmed, causing his sump pumps to fail with the additional water he feels will occur with the removal of the trees. He asked Mr. Lamana if he knew how much ground water is absorbed by the existing trees. Mr. Lamana reminded everyone that the Quigley's are also adding sod and taking away some impervious surfaces with the removal of the tennis court, which he thinks would make up for the movement of the water. Mr. Haddad had his own figures, which he took from a web site, which gives a calculation on the ground water affected by trees. He thinks that the clear cutting of other properties near his home contributed to the wet conditions he now experiences, causing his sump pumps to run continually, when they used to have a dry basement. Chairman Lospinuso commented that the information presented by Mr. Haddad from the web site would need to also be presented to the applicants for their information, as well as the Board. This exhibit was marked A-5. Mr. Haddad is not concerned about the screening issue. He would prefer to see a lesser amount of trees removed.

Mrs. White noted that much of the clear cutting occurred before the ordinance was changed, especially in this area.

Mr. Quigley noted that they are not taking down all the trees, but merely asking to be able to enjoy their back yard.

Mr. Haddad reviewed the original subdivision application, where the Quigley's said they wanted to preserve as many trees as possible. He cited from the minutes of that subdivision approval, which was also submitted into the record as A-6. The Board noted on Mr. Haddad's presentation the trees that he would prefer remain on the property.

Mr. Lamana was asked by Mr. Marks to describe the topography of the property, and Mr. Lamana said the existing slope is minimal and there was no observable pitch toward Mr. Haddad's property that he could see.

A comment from the public asked if the Board would put weight on a report taken from the internet over that from an expert witness, and the Board said they would consider this in their deliberations.

Mr. Steib marked the additional exhibits:

- A-7 Application review, dated 7/22/05
- A-8 Series of photos of trees on the property
- A-9 Two photos of Mr. Hadad's sump pump.

Mr. Quigley asked if they had proposed an accessory structure, would they fall under the same ordinance. Mr. Steib said that the ordinance allows for trees to be removed within a building envelope. Mr. Quigley thinks it is arguable that the sod that will replace the tennis court will absorb more water than the trees to be removed.

Craig Pinsley, 15 Robin Road, was sworn in and commented on the statements made by Mr. Haddad regarding his sump pumps. He feels this may also be affected by the phenomenon of rising sea levels that he feels are contributing to the wet conditions in the area. He expressed his support of the application.

Tom Ridgeway, 56 Black Point Road, was sworn in and also spoke in support of the application. He thinks removing the tennis court and putting down sod is a huge plus.

Richard Blank, 137 Avenue of Two Rivers, also spoke in support of the application. He has visited the property and thinks the area is not a safe area for children and not in keeping with the neighborhood or the town, because of the nature of the property. He thinks this application will greatly enhance the site and add to a better aesthetic feel for the area. He thinks it will benefit everyone. He questions the ordinance as written, and thinks it could be better written for the public's good.

Russell Binns was sworn in and said he is not an expert in soil absorption, but his neighborhood has not had any trees removed or large construction, and yet his sump pumps run all the time now, but did not one year ago. He thinks the purpose of this ordinance is to continue the beauty of the town. The back yard area is hazardous, and this application will help make it more beautiful. He thinks the plan will improve the erosion situation, and he is in support of the application.

Roger Shemmen, 147 Avenue of Two Rivers, was sworn in and has also seen the back yard of the Quigley's, who he feels are bothered by a massive amount of dead trees and unused space. He thinks this will provide a safer and more aesthetic property, and they should be allowed to do this. He thinks the normal conditions are wetter than they were in the past. He supports the application.

Richard Jones, 37 Navesink Ave., was sworn in and stated that the application was not posted on the web site, and he thinks it would be more helpful to have it put on the web site. He asked if the Tree Conservation Officer determines that an action is prohibited, does the Planning Board then have the jurisdiction to overturn it, and Mr. Steib stated that there is a portion of the ordinance that allows the appeal of any determination of the Tree Conservation Officer.

There were no other questions or comments from the public.

Mr. Quigley would like to know the opinion of the Town Arborist, William Brooks, in this case. Mr. Brooks was present and sworn in at this time. He reported that he has visited the property five times, and he is in complete agreement with Mr. Lamana's statements regarding the property.

Councilman Rubin asked about the removal of dead and diseased trees, and Mr. Brooks said it is normal to approve the removal of this type of tree. Mr. Rubin asked if these dead or diseased trees were to be included in the number of trees included in the calculations for the tree removal. Mr. Brooks said he was not sure about the ordinance in this situation, but if a tree were deemed to be dead or diseased and approved to be removed, they should not be part of the calculations for the removal plan. If the applicant had removed the diseased trees, they may have not have had to come before the Board with this appeal. Mr. Brooks agrees with the number of trees marked as hazardous or defective.

Mr. Hadad asked Mr. Brooks about his qualifications for this position, and Mr. Brooks answered this question. Mr. Hadad questioned the determination for the number of trees to be removed, along with the number of trees that were in the front.

Mr. Casazza would have liked to see a landscape design for the property, although this is not a requirement for the tree plan. Based on the testimony of the Arborist, he would be in favor of the application.

Mrs. White agrees and thinks the area does need to be cleaned up. She agrees that the deer ticks are a worry. The removal of the tennis court and the installing of sod will help with the drainage issue. She agrees with Mr. Brooks' observations for the property.

Mr. Clark agreed that the bad trees need to be removed. The 20 trees additional that they want to remove are significant, in his opinion. The neighbor to the south would prefer to see five to seven of the trees remain.

Mrs. Seaman has visited the property, and the portion in question is a mess. She thinks it will be safer for the children to clean up this portion. She noted a number of large trees in the area that she would like to see remain. She thinks taking out the tennis court and installing sod will be a benefit for the drainage. She does not like to see trees removed, but she thinks they are saving the trees that are worth saving and taking down the trees that are in poor condition, allowing the remaining trees to live in a healthier situation.

Chairman Lospinuso noted that if a structure were to be constructed, the Board would require a site plan, etc., so as to protect the neighbors as to drainage, etc.

Mr. Shanley is in favor of the proposal. He has visited the property twice in the past month.

Mr. Hewitt thinks the applicants have done everything to meet the requirements of the ordinance, and Mr. Koenig agreed.

Councilman Rubin does not think this is a clear cut situation when you look at the total number of trees. He would like to have them consider Mr. Haddad's request to save the additional trees. He thinks they should have a landscape plan.

Dr. Lospinuso agrees because of the impact on the surrounding neighbors, and although the Board does not want the Quigley's to incur any additional expense, he would like to see a landscape plan because it is a big project.

Mayor Ekdahl noted that two of the trees that Mr. Haddad wants to save were marked defective. There are others that could possibly be saved. Mr. Quigley said that the density of the trees along Mr. Haddad's property line is significant, and they have tried to accommodate his request by keeping so many along his property line. They have sought landscape architect estimates, and they will pursue this if they receive approval for their plan.

Chairman Lospinuso thinks a plan would enhance the Board's position. Also, the ordinance is not perfect, but sets a guideline. This Board has always been in favor of considering the neighbors' comments, and he hopes the neighbors can work together.

Mr. Casazza would like to see a landscape plan to show to the opposing neighbor, so that he can feel better about the Board's decision.

Chairman Lospinuso is in favor of the application, but also would like to see a landscape plan in deference to the neighbor and also to let the Board see what will be planted. This could be made a condition of approval, to be reviewed and approved by the Tree Conservation Officer.

Councilman Rubin moved to approve the application, with the condition that a landscape plans is provided. Mr. Shanley seconded.

Roll Call Vote: Ayes – Lospinuso, Rubin, White, Clark, Shanley, Hewitt, Casazza, Ekdahl, Williams,
Koenig, Seaman

Nays - None

Motion carried.

Mr. Andre reported the only thing before the Board for the June meeting is an amended plan for the Rumson Country Club. They will have a site plan to show their proposal.

Mr. Clark commented on the web site comments, and Mr. Andre will bring this to Tom Roger's attention.

There being no need for an executive session, motion was made and seconded to adjourn. Voice Vote: ayes, unanimous. The meeting was adjourned at 9:10 p.m.

Respectfully submitted,
Patricia Murphy
Clerk